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8 Attorneys for Defendant

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 RONALD JOSEPH PLAGA,

14 Plaintiff,

15 v.

16 MICHAEL J. ASTRUE,

Commissioner of Social Security,

17 Defendant.

) Case No. 09-CV-1194-RMW

) **STIPULATION AND ORDER**

) **SETTLING ATTORNEY'S FEES**

) **PURSUANT TO THE EQUAL ACCESS**

) **TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

) **AND COSTS PURSUANT TO 28 U.S.C. §**

) **1920**

19
20 IT IS HEREBY STIPULATED by and between the parties through their undersigned
21 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees under the
22 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of FIVE THOUSAND
23 DOLLARS AND 00/CENTS (\$5,000.00), and costs in the amount of THREE HUNDRED AND
24 FIFTY DOLLARS AND 00/CENTS (\$350.00) under 28 U.S.C. § 1920. This amount represents
25 compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with
26 this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

27 After the Court issues an order for EAJA fees and expenses to Plaintiff, the government
28 will consider the matter of Plaintiff's assignment of EAJA fees and expenses to Plaintiff's
attorney. Pursuant to *Astrue v. Ratliff*, – S.Ct. –, 2010 WL 2346547 (U.S. June 14, 2010), the

ability to honor the assignment will depend on whether the fees and expenses are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees and expenses is entered, the government will determine whether they are subject to any offset.

Fees and expenses shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Dolly M. Trompeter, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel, Dolly M. Trompeter.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and expenses, and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees and expenses in connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

Respectfully submitted,

Dolly M. Trompeter

Date: December 15, 2010

/s/Dolly M. Trompeter*

DOLLY M. TROMPETER (* via email authorization dated December 15, 2010)
Attorney for Plaintiff

MELINDA HAAG
United States Attorney
LUCILLE GONZALES MEIS
Regional Chief Counsel, Social Security Administration

Date: December 15, 2010

By: /s/Jacob M. Mikow

JACOB M. MIKOW
Special Assistant United States Attorney
Attorneys for Defendant

ORDER

APPROVED AND SO ORDERED:

Dated: 2/3/11



RONALD M. WHYTE

United States District Judge